

EA



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,090	12/02/2003	Joey D. Magno JR.	577-619	3426

23869 7590 05/24/2005

HOFFMANN & BARON, LLP  
6900 JERICO TURNPIKE  
SYOSSET, NY 11791

EXAMINER
----------

SANDY, ROBERT JOHN

ART UNIT	PAPER NUMBER
----------	--------------

3677

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/726,090	Applicant(s) MAGNO ET AL.	
	Examiner Robert J. Sandy	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 April 2005 (cert. of mail date).
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11 is/are allowed.
- 6) ☒ Claim(s) 12 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>approved drawing sheet</u> .           |

### **DETAILED ACTION**

This final action is responsive to the reply filed 26 April 2005 (cert. of mail date).

- Claims 1-13 are pending.
- Claims 1, 4, 5, 8, and 12 were amended.
- A replacement drawing sheet has been approved for entry.

#### ***Response to Arguments***

In view of applicant's amendment to claims 1, 4, 5, 8, and 12, and remarks regarding claim 6 (page 14 of applicant's reply), claim 11 (page 15 of applicant's reply), and claim 13 (page 19 of applicant's reply), the claim objections indicated in the prior Office action has been withdrawn.

In view of applicant's remarks on page 17 regarding claim 12, where 'said side' is in reference to the indication of the side of the passageway by use of the term "thereof", the rejection to claims 12 and 13 under 35 U.S.C. 112, second paragraph, indicated in the prior Office action has been withdrawn.

In view of applicant's filing of the replacement drawing sheet, the drawing objection indicated in the prior Office action has been withdrawn.

Applicant's arguments filed 26 April 2005, regarding claim 12, have been fully considered but they are not persuasive. The added claim limitations pertaining to "said support surface extending across substantially the entire separation between said entry and exits ends" and "said engagement of said strap with said support surface being substantially continuous between said entry and exit ends" does not distinguish from Feldberg ('962) since the incorporation of the term "substantially" has a minimum quantity definitive *to a large extent*, such as, at least more than 50 per cent. Feldberg ('962) meets these limitations since Feldberg ('962) shows the support surface extending across the to a large extent (i.e., at least more than 50 per cent) of the entire separation between the entry and exits ends, and the engagement of the strap with the support surface being to a large extent continuous between the entry and exit ends.

Art Unit: 3677

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12 and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Feldberg (U. S. Patent No. 3,588,962). Feldberg ('962) discloses a cable tie (10) for bundling elongate articles, said cable tie comprising: an elongate strap (12) having opposing free and base ends, said strap further having a longitudinal central axis and being deformable into a loop (see Fig. 2) such that said central axis is contained in a central plane, said strap having a primary grip surface; and

a head (11) having a base extending from said base end of said strap, said head having a passageway (14) with opposed entry and exit ends such that said free end of said strap can be inserted into said passageway through said entry end and exit said passageway through said exit end, said passageway having a longitudinal central axis (along central view line 3-3, Fig. 1) which is contained in said central plane,

said head having a pawl (15) which is flexibly connected to an inner surface (at 35) of said base such that said pawl is adjacent to said passageway, said pawl being biased to an initial locking position (as represented in Fig. 3) and movable therefrom to a supplemental locking position (represented in Fig. 5), said pawl being further biased thereto from said initial locking position (i.e., further biased from the initial locking position shown in Fig. 5 to the position shown in fig. 6), said pawl having a heel (surface portion 30, see Figs. 4-6) a portion (30a, see Fig. 6) of which moves into engagement with said base when said pawl is moved from said initial to supplemental locking positions to obstruct said movement of said pawl beyond said supplemental locking position, said pawl having a grip surface (surface defining of teeth 16, 17 and 18) which defines a side of said passageway (see Fig. 3),

said head having a support surface (20) which defines a side of said passageway which opposes the side defined by said grip surface of said pawl, said support surface extending across substantially the entire separation between said entry and exits ends such that, when said strap is

Art Unit: 3677

sufficiently inserted into said passageway through said entry end, said pawl is biased to said initial locking position wherein said grip surface of said pawl forcibly engages said primary grip surface of said strap such that said strap is urged into engagement with said support surface to provide frictional resistance to said retraction of said strap, said engagement of said strap with said support surface being substantially continuous between said entry and exit ends, said retraction of said strap further causing movement of said pawl from said initial locking position to said supplemental locking position to increasingly force said strap against said support surface (20) to increase said frictional resistance wherein said movement of said pawl beyond said supplemental locking position is obstructed by the engagement of said portion of said heel with said base (as demonstrated in Fig. 6); and

(concerning claim 13) the movement of said pawl from said initial locking position to said supplemental locking position is by pivoting of said pawl about a flexible connection (neck portion 35) of said pawl to said base.

#### *Allowable Subject Matter*

In view of applicant's amendment to claims 1, 4, 5 and 8, claims 1-11 are allowed. The reasons for allowance for claims 1-11 have been set forth in the prior Office action.

#### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

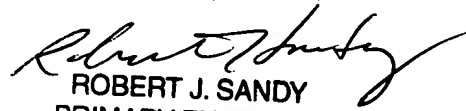
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3677

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
ROBERT J. SANDY  
PRIMARY EXAMINER

Robert J. Sandy  
Primary Examiner  
Art Unit 3677

Approved by \_\_\_\_\_  
9/21/95

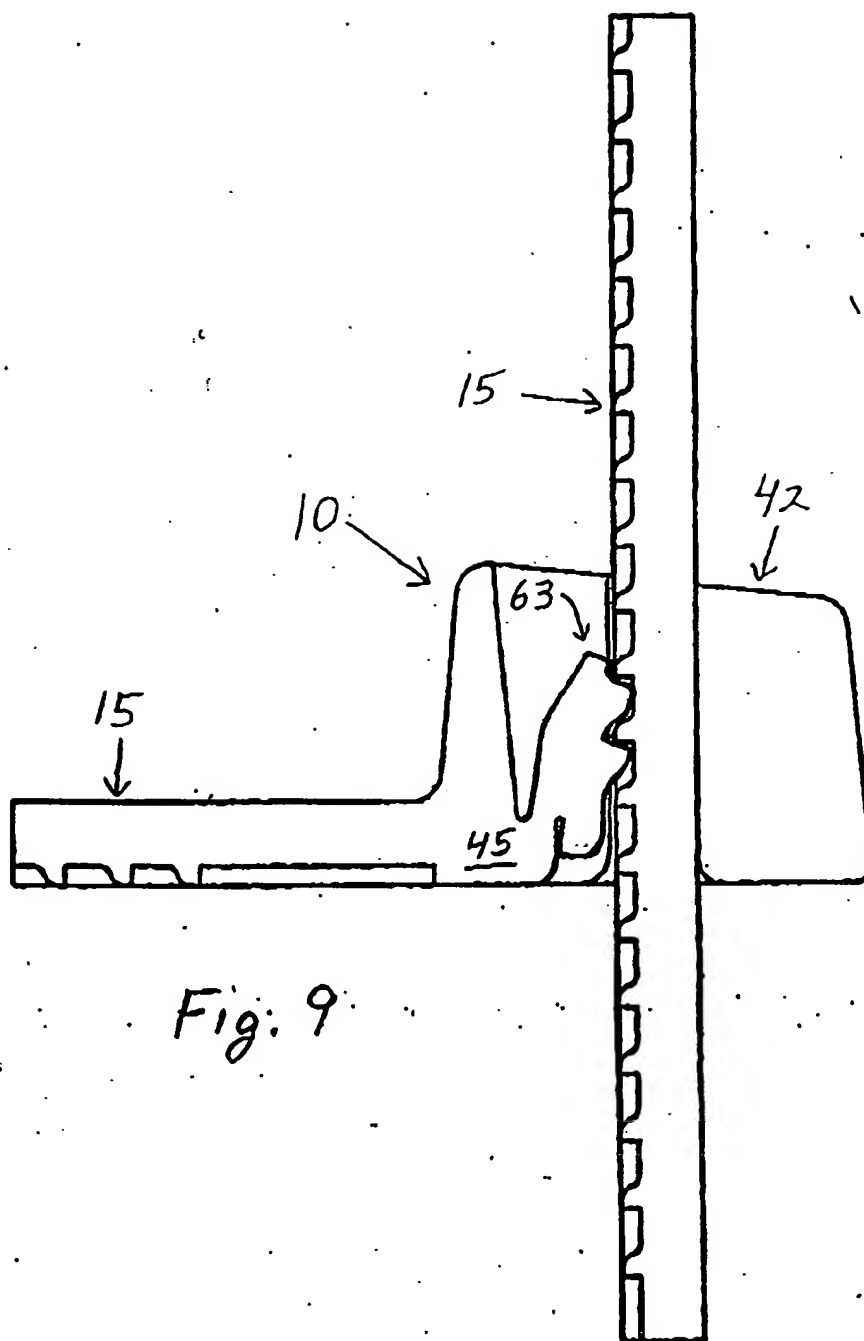


Fig: 9